

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATIONS No. 1358 of 2004
TO 1361 OF 2004

with
CIVIL APPLICATION No.8101 OF 2006
in
SPECIAL CIVIL APPLICATION No.1358 OF 2004

with
CIVIL APPLICATION No.9137 OF 2006
in
SPECIAL CIVIL APPLICATION No.1358 OF 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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NABROS TRANSPORT PRIVATE LTD. - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR NANAVALI WITH RAMKRISHNA B DAVE for Petitioner(s) : 1,
MR.D.A. DESAI, ASSTT. GOVERNMENT PLEADER for Respondent(s) : 1 - 3.
MR JITENDRA MALKAN for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 18/08/2006

COMMON ORAL JUDGMENT

At the joint request of the learned advocates appearing for the parties, the matters are taken up for final disposal.

2. In all these matters, the question involved is common and therefore, all the matters are disposed of by this common judgement. Respondents no.2 and 3 had taken action against the petitioners for their vehicle having excessive Gross Vehicle Weight (GVW) prescribed in the RC Book. The said GVW could not have been prescribed in view of the notification dated 18th October 1996. On the last occasion when Civil Application No.8101 of 2006 in Special Civil Application No.1358 of 2004 and other Civil Application were heard, the applicant-original petitioners were directed to tender their RC Books to the authority, i.e. Assistant Regional Transport Officer, Gandhinagar for carrying out necessary correction.

It is reported that the petitioners accordingly tendered their RC Books and the same are corrected with regard to the GVW.

3. The learned counsel Mr.Nanavati appearing with Mr.Ramakrishna B. Dave, the learned advocate for the petitioners submitted that the vehicles involved in these petitions are not ordinary ones. The case of the petitioners right from the beginning is that the State authorities shall forward the applications of the petitioners for permitting excess GVW in case of these vehicles.

Mr.Desai, the learned Assistant Government Pleader, on instructions, submitted that though belatedly but now the application with regard to the request of the petitioners is forwarded to the Central Government. He submitted that now it is for the Central Government to take decision qua the request of the petitioners and permit excess GVW, particularly, in light of the provisions contained in section 58(3) of the Motor Vehicles Act.

4. The learned counsel Mr.Nanavati submitted that the vehicles belong to an exceptional category, for exceptional work of transporting heavy machinery. He further submitted that there are subsisting contracts, if the vehicles are not permitted to ply, it is going to cause serious prejudice to the petitioners. Besides monetary loss to the petitioners, it is likely to affect the transportation of the machinery, which is not possible to be transported by ordinary vehicles. He submitted that now that the RC Books are already corrected with regard to GVW and the request of the petitioners is forwarded to the Central Government, no prejudice will be caused if the Court permits the petitioners to ply these vehicles on such conditions which it may deem fit, prescribing necessary check so as to see that no hazard is created for the general public while plying these vehicles.

5. Taking into consideration the facts of the cases, it is deemed fit to pass the following order.

(i) The State Government is directed to pursue the application/s forwarded to the Central Government on 1st August 2005, if necessary with a copy of this order so as to see that the Central Government decides the application as expeditiously as possible.

(ii) In the meantime, the respondent authorities are directed to allow the petitioners to ply these vehicles on condition that,

(a) the petitioners shall regularly pay the taxes leviable on these vehicles on the basis of the assigned capacity, which is in excess to the one recorded in the RC Book.

(b) The petitioners shall abide by the suggestions/ instructions given by respondents no.2 and 3 with regard to public safety.

(c) The petitioners shall allow

respondents no.2 and 3 to carry out regular inspections of these vehicles at such intervals, deemed fit by the authorities. However, the inspection may not be insisted during the period in which the vehicle is on the way to a particular destination.

(iii) The petitioners shall be allowed by respondents no.2 and 3 to carry weight as per the assigned capacity of these vehicles.

(iv) The Central Government represented by the Assistant Solicitor General is directed to consider the application forwarded by the State Government as expeditiously as possible, preferably by 30th November 2006.

(v) Decision shall be communicated to the State Government with a copy to the petitioners.

6. With the aforesaid directions, all these petitions are disposed of. Rule is made absolute. No order as to costs.

7. In view of the order passed in the main matters, no orders on Civil Applications No.8101 of 2006 and 9137 of 2006 in Special Civil Application No.1358 of 2004. The Civil Applications are disposed of accordingly.

(RAVI R. TRIPATHI, J.)

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